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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 JESSE JEROME POINTER,

Case No. 2:15-cv-01422-APG-VCF

10 Plaintiff,

ORDER

11 v.

12 CLARK COUNTY DETENTION CENTER et
13 al.,

14 Defendants.

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16 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by
17 a county inmate. Plaintiff did not submit an application to proceed *in forma pauperis* or
18 pay the filing fee in this case. On October 16, 2015, this Court issued an order directing
19 Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full
20 filing fee of \$400.00 within thirty days from the date of that order. (Dkt. #3 at 2). The
21 thirty-day period has now expired, and Plaintiff has not filed another application to
22 proceed *in forma pauperis* or paid the full filing fee. Instead, Plaintiff filed an incoherent
23 document telling the Court that his name is "Infinite Master Magnetic" and that the Court
24 had all of his "correct filing[s]." (Dkt. #4 at 1-2). Plaintiff also demanded immediate
25 release from custody. (*Id.* at 1).

26 District courts have the inherent power to control their dockets and "[i]n the
27 exercise of that power, they may impose sanctions including, where appropriate . . .
28 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829,

1 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's
 2 failure to prosecute an action, failure to obey a court order, or failure to comply with
 3 local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for
 4 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
 5 1992) (dismissal for failure to comply with an order requiring amendment of complaint);
 6 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply
 7 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v.*
 8 *U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply
 9 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal
 10 for lack of prosecution and failure to comply with local rules).

11 In determining whether to dismiss an action for lack of prosecution, failure to
 12 obey a court order, or failure to comply with local rules, the court must consider several
 13 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need
 14 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
 15 favoring disposition of cases on their merits; and (5) the availability of less drastic
 16 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*,
 17 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

18 In the instant case, the Court finds that the first two factors, the public's interest in
 19 expeditiously resolving this litigation and the Court's interest in managing the docket,
 20 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also
 21 weighs in favor of dismissal, since a presumption of injury arises from the occurrence of
 22 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.
 23 *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public
 24 policy favoring disposition of cases on their merits – is greatly outweighed by the factors
 25 in favor of dismissal discussed herein. Finally, a court's warning to a party that his
 26 failure to obey the court's order will result in dismissal satisfies the "consideration of
 27 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;
 28 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file an application

1 to proceed *in forma pauperis* or pay the full filing fee within thirty days expressly stated:
2 "IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order,
3 dismissal of this action may result." (Dkt. #3 at 2). Thus, Plaintiff had adequate warning
4 that dismissal would result from his noncompliance with the Court's order to file an
5 application to proceed *in forma pauperis* or pay the full filing fee within thirty days.

6 It is therefore ordered that this action is dismissed without prejudice based on
7 Plaintiff's failure to file an application to proceed *in forma pauperis* or pay the full filing
8 fee in compliance with this Court's October 16, 2015, order.

9 It is further ordered that the Clerk of Court shall enter judgment accordingly.

10 Dated: November 30, 2015.
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13 UNITED STATES DISTRICT JUDGE
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